

1 UNITED STATES BANKRUPTCY COURT

2 FOR THE DISTRICT OF DELAWARE

3 Case No. 01-01139-amc

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5 In re:

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7 W.R. GRACE & CO., ET AL,

8

9 Reorganized Debtors.

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12 United States Bankruptcy Court

13 For the Eastern District of Pennsylvania

14 900 Market Street, Suite 204

15 Philadelphia, PA 19107

16

17 August 26, 2021

18 10:00 AM

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21 B E F O R E :

22 HON. ASHELY M. CHAN

23 U.S. BANKRUPTCY JUDGE

24

25 ECRO: UNKNOWN

1 HEARING RE Motion for an Order: (I) Enforcing Against Rune
2 Kraft The Plan And Confirmation Claim Preclusion Bars To
3 Post-Bar Date Assertion Of Administration Expense Claims;
4 And (Ii) Compelling Rune Kraft To Dismiss With Prejudice His
5 Complaint Against The Reorganized Debtor In The Matter
6 Captioned Kraft Vs. Chevron Corp. Et Al., Case No. 2:21-Cv-
7 00575-Djh ("The Arizona Chevron Litigation") Filed By W.E.
8 Grace & Co., Et Al. By James O'Neill.

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25 Transcribed by: Sonya Ledanski Hyde

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P R O C E E D I N G S

CLERK: Yes, 10:00. This is Judge Chan's list for August the 26th. The one matter is W.R. Grace and Company, motion for order enforcing against Rune Kraft and compelling Rune Kraft to dismiss with prejudice his complaint. Could counsel and parties make their appearance, please?

MR. O'NEILL: Good morning. This is James O'Neill of Pachulski, Stang, Ziehl, and Grace, co-counsel -- Pachulski, Stang, Ziehl, and Jones, co-counsel for Grace and I appear also today with my co-counsel Roger Higgins. I also wanted the Court to know that we have our declarants on the phone, Justin Balser from the Akerman firm and also Viktoriya Shpigelman from Grace. Also joining today from the Akerman firm is Ryan Roman.

CLERK: Okay --

MR. O'NEILL: And those are the appearances for W.R. Grace.

THE COURT: Great. Thanks. And do we have the creditor here, Joan (indiscernible)?

CLERK: Yes. Mr. Kraft, can you identify yourself for the record, please?

MR. KRAFT: Yes. My name is Rune Kraft, spelled R-U-N-E, K-R-A-F-T. However, I'm not a creditor in this action.

THE COURT: Okay.

1 MR. KRAFT: But --

2 THE COURT: All right. Okay. Well, I wanted to
3 let all of the parties know that we have read everything
4 that's been filed by Mr. Kraft as well as W.R. Grace and I'd
5 like to first ask Mr. Kraft, did you have anything to add to
6 the pleadings that you've already filed? I've read
7 everything, so I don't need to hear anything you've already
8 said, but is there anything else that I need to know?

9 MR. KRAFT: Yes. If you allow me a few minutes,
10 please.

11 THE COURT: Okay, go ahead.

12 MR. KRAFT: So based on Article III of the
13 Constitution, this Court does not have the constitutional
14 authority to meddle with my (sound drops) with W.R. Grace
15 and Company. I do not consent to the (sound drops) of this
16 Court and I do not consent to the (sound drops) of this
17 Court.

18 W.R. Grace and Company has come before this court
19 and has asked it to (sound drops) final judgment in the
20 claims that I have made against this (sound drops) in Case
21 No. CV-21-00575-PHX (sound drops) at the Article III court,
22 United States District Court for District of Arizona.

23 I have never submitted a proof of claim in this
24 action. I have never been a creditor in this action. I
25 have never taken part in any of the activities that have

1 taken place at this Article I court. I have brought action
2 against W.R. Grace and Company based on making false
3 representations in rewriting and committing actual fraud for
4 the purpose of obtaining money and property at an Article
5 III (indiscernible).

6 W.R. Grace and Company's instant use of this
7 Article I (indiscernible) were comprehensively addressed by
8 the Supreme Court in Northern Pipeline v. Marathon Pipe
9 Line, 458 U.S. 50 (1982) and Stern v. Marshall, 564 U.S. 462
10 (2011) with the Supreme Court concluding, "A bankruptcy
11 judge may issue a final judgment in a proceeding only if the
12 matter both meets Congress' definition of a core proceeding
13 and arises under or arises in Title XI". And it went on to
14 say, " Although we conclude that § 157(b)(2)(C) permits the
15 Bankruptcy Court to enter final judgment, Article III of the
16 Constitution does not." That's my first point.

17 My second point is (sound drops) has anticipated
18 the conduct of W.R. Grace and Company and (sound drops)
19 found in 11 U.S.C. Section 523(a)(2) and (4). This Court
20 cannot enforce (sound drops) against (sound drops).

21 And my third point, and this is my final point,
22 W.R. Grace and Company wants to challenge my standing to use
23 the Article III court, makes W.R. Grace and Company liable
24 for having to pay damages. Such challenges must be brought
25 before the Article III court, not this Article I court.

1 This is a (sound drops) District Court (sound drops) U.S.C.
2 (sound drops) statute and the California (sound drops)
3 Section (sound drops) for the California (sound drops) code
4 and (sound drops) for the California Business and (sound
5 drops).

6 That is my statement to the Court. I appreciate
7 your time.

8 THE COURT: Okay. Thank you, Mr. Kraft. Mr.
9 O'Neill, I do not need you to respond to that. Is there
10 anything that you needed to add that was not already in your
11 papers?

12 MR. O'NEILL: Your Honor, two points.

13 THE COURT: Yes, go ahead.

14 MR. O'NEILL: I just wanted to make sure that the
15 Court took into consideration the declarations that we have
16 filed for --

17 THE COURT: Yesh.

18 MR. O'NEILL: -- Shpigelman and the two
19 declarations for Mr. Balser. We filed a -- one last night
20 because we --

21 THE COURT: We sat that.

22 MR. O'NEILL: -- figured out that we had --

23 THE COURT: Yep.

24 MR. O'NEILL: -- omitted some exhibits, so I
25 apologize for that oversight.

1 THE COURT: No worries. No worries at all.

2 MR. O'NEILL: So just wanted to make sure that the
3 Court was aware of those declarations, and in particular,
4 Exhibit D to the Shpigelman declaration which is the 2006
5 distribution order and Exhibit F to the Shpigelman
6 declaration which is the underlying complaint in the Arizona
7 action. Those are the points that I wanted to bring to the
8 Court's attention and I will yield for a moment to my co-
9 counsel, Mr. Higgins --

10 THE COURT: Sure.

11 MR. O'NEILL: -- to the extent that he has anything
12 else he would like to add.

13 THE COURT: Okay.

14 MR. HIGGINS: Good morning, Your Honor. Roger
15 Higgins for W.R. Grace and Company. I really, at this
16 point, have nothing to add. I'm not going to respond to Mr.
17 Kraft's statement, as none of this was brought up in his
18 briefings.

19 THE COURT: Okay. All right, well, thank you all
20 for participating today. An order will be out shortly and I
21 appreciate everyone's time and work in making all those
22 pleadings, so thank you very much. The hearing is
23 concluded.

24 MR. O'NEILL: Thank you, Your Honor.

25 MR. HIGGINS: Thank you, Your Honor.

1 THE COURT: Thank you.
2 (Whereupon these proceedings were concluded at
3 10:09 AM)
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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing
transcript is a true and accurate record of the proceedings.

Sonya Ledanski
Hyde

Digitally signed by Sonya Ledanski
Hyde
DN: cn=Sonya Ledanski Hyde, o, ou,
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Date: August 30, 2021

[& - date]

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[de - pipe]

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[pipeline - ziehl]

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